



CALIFORNIA WORKFORCE INVESTMENT BOARD MEETING NOTICE

**May 19, 2010
9:30 a.m. to 12:30 p.m.**

**Holiday Inn Capitol Plaza
300 J Street
Sacramento, CA 95814**



**Arnold
Schwarzenegger
Governor**

**Barbara Halsey
Director**

AGENDA

- 1. Welcome and Opening Remarks**
- 2. Update – Labor and Workforce Development Agency Report**
- 3. Update – Executive Director's Report**
- 4. Update – Special Committees**
 - **Green Collar Jobs Council - Jamil Dada, Vice-Chair**
 - **Issues and Policies Committee -Edward Munoz, Chair**
- 5. Action:**
 - a. Approval of December 8, 2009 State Board Meeting Summary**
 - b. Approval of Waiver to use Rapid Response Funding for Incumbent Worker Training**
 - c. Approval of Waiver to Permit up to 90 Percent Reimbursement for On-the-Job Training**
 - d. Approval of Incumbent Worker Definition**
 - e. Approval of One-Stop Branding Workgroup Report**
- 6. Update:**
 - a. Health Care Reform Task Force**
 - **Secretary Kimberly Belshé**
Health and Human Services Agency (Invited)
 - b. WIA Formula Funding Allocations**
- 7. Information Presentation**
 - **State of the Economy**
Howard Roth, Chief Economist, California Department of Finance
- 8. Public Comment**
- 9. Other Business**

Meeting conclusion time is an estimate; meeting may end earlier subject to completion of agenda items and/or approved motion to adjourn. In order for the Committee to provide an opportunity for interested parties to speak at the public meetings, public comment may be limited. Written comments provided to the Committee must be made available to the public, in compliance with the Bagley-Keene Open Meeting Act, §11125.1, with copies available in sufficient supply. Individuals who require accommodations for their disabilities (including interpreters and alternate formats) are requested to contact the California Workforce Investment Board staff at (916) 324-3425 at least ten days prior to the meeting. TTY line: (916) 324-6523. Please visit the California Workforce Investment Board website at <http://www.cwib.ca.gov> or contact Daniel Patterson for additional information.

- 1. Welcome and Opening Remarks**
- 2. Update: Labor and Workforce Development Agency Report**
- 3. Update: Executive Director's Report**
- 4. Update – Special Committees**
 - Jamil Dada, Vice-Chair – Green Collar Jobs Council**
 - Edward Munoz, Chair – Issues and Policies Committee**

5. Action Items:

- a) Approval of December 8, 2009 State Board Meeting Summary**
- b) Approval of Waiver to use Rapid Response Funding for Incumbent Worker Training**
- c) Approval of Waiver to Permit up to 90 Percent Reimbursement for On-the-Job Training**
- d) Approval of Incumbent Worker Definition**
- e) Approval of One-Stop Branding Workgroup Report**

**California Workforce Investment Board
Meeting Summary
Tuesday, December 8, 2009**

The California Workforce Investment Board meeting was held from 1:00 pm to 4:00 pm at the Alumni Center at the California State University, Sacramento. The following members were present:

Secretary Victoria Bradshaw
Gay Plair-Cobb – for Senator Swanson
Peter Cooper – for Art Pulaski
Jamil Dada
Cesar Diaz – for Bob Balgenorth
Daniel Enz – for Wilmer Carter
Jaime Fall – for Doug Hoffner
Larry Fortune
Dennis Guido – for Jack O’Connell
Faye Huang
Eloisa Klementich
Jim Koontz – for Richard Mendlen
Nadia Leal – for Senator Ducheny

Jose Millan – for Jack Scott
Elvin Moon
Gayle Pacheco
Pete Parra
Alma Perez – for Senator DeSaulnier
Dennis Petrie
Stella Premo
Tim Rainey – for Art Pulaski
Richard Rubin
Barry R. Sedlik, Chair, GCJC
Linda Summers – for Mayor Pulido
Audrey Taylor

Members Absent

Secretary Kim Belshé
Norris Bishton Jr.
Chris Essel
Victor Franco
Larry Gotlieb, Chair
Joseph Griesedieck

Barbara Halsey
T. Warren Jackson
Richard Montanez
Edward Munoz
Frank J. Quintero
Arturo Rodriguez

CWIB Staff:

Doug Sale
Sunshine Duffy
Luis Bermudez

Daniel Patterson
Adam Quinonez

Javier Romero
Mitzi Magtoto

Ken Quesada
Joelle Hurst

Item 1: Welcome and Opening Remarks

In the absence of the Chair and Vice-Chair, Barry Sedlik chaired the meeting. He welcomed all the Board members, staff and public. The members introduced themselves. He also welcomed back as the Labor and Workforce Development Agency, Secretary Victoria Bradshaw

Item 3: Update – Executive Director’s Report

Doug Sale – Reporting for Barbara Halsey, provided the following updates.

Overview of green initiatives and the Green Collar Jobs Council (GCJC)

The Clean Energy Workforce Training Program (CEWTP) - The program has 34 recipients, with \$27 million in funding and is the largest program or its kind in the nation. It was announced by the Governor on August 31, 2009. It will encompass 5,600 participants in the 1st phase of the program. The 34 grantees were chosen through a competitive process.

Regional Industry Clusters of Opportunity Grant (RICO) – The filing deadline was December 3, 2009. 12 proposals were received, 10 will be funded. Proposals will be read and reviewed during the first week in January.

On December 9, 2009 Next 10 releases their newest report: Many Shades of Green: Diversity and Distribution of California’s Green Jobs.

In the afternoon there will be a Regional Action Clinic and Sector Strategies discussion.

Item 4: Update – Special Committees

- **Barry Sedlik, Chair – Green Collar Jobs Council (GCJC)**

There have been significant accomplishments, which is difficult due to so many various agencies involved. Thank you to staff, agencies, and Council. The GCJC is also looking more to companies to help them to learn & master techniques in green jobs and their costs so they can be better positioned after the recession.

Audrey Taylor recognized Barry Sedlik for his leadership of the GCJC.

- **Doug Sale – Issues and Policy Committee**

The IPC met for the first time on November 12, 2009. On the agenda for the first meeting was a discussion of the ARRA 25% Rapid Response Funds Allocation Methodology and the Committee Charter. A future meeting has not yet been scheduled, but members may expect a meeting notice in early January as there are various issues and policies up for discussion. He also noted that both of those items are included as the Board Agenda as Action Items.

Secretary Bradshaw - noted in advance of the Action Items that there might not be a quorum yet. Therefore, Action Items should be deferred at this point and the Board could proceed to an Information presentation. The Secretary also requested that the missing members be contacted to determine if they would arrive in time for the Board to

be able to vote on the proposed items. If not, there should be a teleconference noticed so that the actions could be taken in a timely manner.

Item 6: Information Presentation – American Recovery and Reinvestment Act Implementation

Jaime Fall representing the Governor's ARRA Task Force gave the following update:

The first quarter reporting has been completed and there is a story about the funding not being told. It is important to note that \$4 billion have come into California in the form of Unemployment Insurance (UI) benefits for consumers to pay rent, mortgages, car payments, and necessities. Three UI programs are part of the Recovery Act; the Basic UI program is not part of the Act. We have also received \$75 million in Clean Energy Job Training programs which will be administered between Agency and the California Energy Commission (CEC). This helps consumers get skills for clean jobs. The Green Job Corps program will use \$10 million to help 1,500 at risk youth ages 16-24 to get training in green jobs. A total of about 40,000 consumers have been helped by the 49 Local Workforce Investment Areas (LWIA).

The Governor's WIA 15% Discretionary funds, in the amount of about \$30 million are being used to help youth, veterans, and dislocated workers get services and job skills.

Secretary Bradshaw - In review, there are about \$80 billion from the Recovery Act which have come into California - clearly a helpful thing. It is important to remember that this is only a two-year program. Two questions to keep in mind are:

1. How do we maximize the use of the money we've been gifted?
2. How do we focus on this not going on indefinitely?

Barry Sedlik – Question to Jaime Fall: How much has already come in and how much has been spent? Jaime Fall indicated that it's difficult to say, as it changes every day, every hour, and we are still early in this process. Also, the LWIAs do not expend funds until training is done, so some training might be occurring that has not been reported until it is completed.

Introductions of members arriving late to the meeting:

Cesar Diaz, Tim Rainey, and Dennis Petrie.

Item 5a. Approval of September 22, 2009 State Board Meeting Summary

Minutes of September 22, 2009 approved unanimously.

Action Item 5c. Annual Report

Doug Sale stated that a teleconference was held on November 12, 2009. Members present at the teleconference made suggestions for additions and changes to the Report and requested that it go to all members for review, comments, and to the full Board for approval. Comments received have been incorporated into the report.

Gayle Pacheco asked whether or not the Board will be discussing Action Item 5b. Approval of November 12, 2009 State Board Meeting Summary.

Gayle Pacheco stated that there is a question about gang language, how it reads, sounds, inflections on Pg. 24. She also identified the use of hyphenation on Pg. 29.

Secretary Bradshaw suggested such questions and suggestions about grammar be communicated to staff prior to the meeting and resolved in advance of the Board meeting.

The Annual Report was approved unanimously by the members.

Item 5b. Approval of November 12, 2009 State Board Meeting Summary

Gayle Pacheco recommended that the minutes include a list of CWIB staff present at the teleconference on the attendance register. Barry Sedlik mentioned that CWIB staff is also looking into video teleconferencing for future meetings commented that audio also works great, and agreed upon by Gayle Pacheco.

Stella Premo - request to add her name to the November 12, 2009 Board Meeting minutes, she was present.

The November 12 Meeting Summary was approved unanimously by the members.

Item 5d. Approval of the Draft Charter for Issues and Policies Committee

Doug Sale provided a brief introduction to the Charter

Richard Rubin requested that staff send out the previous meetings' minutes in advance of scheduled meetings so Board members are able to make recommendations in advance.

The Draft Committee Charter was approved unanimously by the members.

Item 5e. Approval of ARRA 25% Rapid Response Funds Allocation Methodology

Doug Sale also provided a brief introduction to this item stating that the IPC had this issue as an agenda item at their November 12, 2009 meeting, discussed it, and voted to move it to the full board for approval.

Audrey Taylor – Commented that the policy was discussed at the Issues and Policy Committee meeting and that they discussed having “as much flexibility as we can”.

Richard Rubin - Reiterated his request for a “dashboard” with information about the LWIAs in order to make an informed decision about them receiving these funds.

Dennis Petrie- discussed the RES Program and how he felt it related to the Action Item.

Secretary Bradshaw - Clarified Dennis’ comments by saying, “Shouldn’t we have, kind of integrated, the members’ policy committee with what staff felt was important and come up with a collective answer as opposed to having the committee meeting and the staff...(trails off).

Dennis added, “Rather than having the committee respond to recommendation of staff, participate in the deliberation and discussion, absolutely.”

Secretary Bradshaw - “If there are no questions as to the allocation, and the question is should the priority be also to make sure the use of that money helps move those who have been identified as being long term unemployed into the workforce by utilizing those moneys at the local level, and the local level vote to determine how is the best way to do that.”

Richard Rubin - “And to expedite that process”

Audrey Taylor - Added that the discussion at the Issued and Policy Committee meeting was “around the word ‘priority’”.

Secretary Bradshaw – Concluded by stating:

“Can we amend the recommendation to include the fact that locals should expedite the movement of these moneys to services, prioritize by the locals but in mind that, RES (Richard interjects) consistent with the priorities established by the locals. (Victoria) Isn’t that what you need in order to make sure there’s funding for those identified by profiling of those long term unemployed and still allow the locals a priority and assures the committee and make sure it’s done on a priority basis?”

Jamil Dada - Motion to adopt the amendment as presented by the Secretary.

Note: The following recused themselves from this vote:

Tim Rainey
Gayplair Cobb

Richard Rubin seconds the motion. The motion was passed unanimously by the members

Item 7: Information Presentation – Sector Strategies

- Representatives from the National Network of Sector Partners and The Corporation for a Skilled Workforce provided a presentation on Sector Strategies. Copies of their presentations are available on the Board's website at www.cwib.ca.gov.

Discussion:

Audrey Taylor – posed two questions regarding sustainability:

- Are there any examples of sustainability, considering expiration in funding?
- In partnerships at the local level, is there any organization that truly believes that sustainability can happen?

Jose Millan brought up the issue of a retiring workforce facing the energy sector. The utilities actually wanted greater uniformity in training, throughout the State, so a more local or regional sector view did not work. The panelist responded by stating that in this case, the entire State could be the region in question.

(unknown speaker) – asked question regarding how the Sector Strategies approach is affecting those populations with barriers to employment.

Tim Rainey – raised the following points:

- Programs and partnerships are not already developed. There should be more funding for planning.
- Grant money sometimes creates and does not break down silos.
- Workers should be involved in the planning stages for training.
- WIA emphasizes new worker training, not as much for incumbent worker training. One funding source is very valuable to have the freedom to move people into work.

Tim Rainey – follow up:

- Planning needs to be open to who leads the process, determined regionally.
- Sustainability can work; partners can put up funding with the incentive of public money.

Public Comment

No public comment was made.

Other Business

Gayle Pacheco discussed the business opportunities and training for people with disabilities. The Department of Rehabilitation partners with One-Stop career centers

and is a great example of how to create these opportunities. Also, there is great outreach to businesses to encourage them to hire people with disabilities and veterans. Perhaps a presentation could be scheduled to address the Board regarding these opportunities.

Secretary Bradshaw noted, in closing, that California is at the beginning of “green” job exploration, and is ahead of what this means – opportunities, challenges, etc. “This is a huge opportunity and natural successor to biotech and high tech” she said. But some differences exist: biotech and high tech were regional, in the Bay Area, for example, while green tech is a statewide phenomenon. It depends on what natural resources are available in each region and it also involves all parts of the career ladder, not just the upper levels. There are some problems with regulations and business, but we must not miss this huge economic opportunity and this board should be focusing on opportunities. “This will be our focus for the next couple years”, she added. Also, it’s important to see that this board is positioned uniquely in history - we can lead or follow.

Secretary Bradshaw pointed out that the first battle is showing up for the meetings and thanked those who attend the meetings. The question was presented: what role do we want to play and how active do we want to be? The Secretary pointed out that this topic should go on the next meeting agenda. She also pointed out that if members are not showing up to meetings, they’ll probably not be coming back. It is important to have people who are going to participate in forming California’s future. “We have a responsibility; we need to be prepared to participate.” Another point made was that it’s the combination of perspective that helps make good policy. If members participate, that makes it great. If there’s no participation, then there’s no good policy.

There were no further comments, the meeting was adjourned.

STATE OF CALIFORNIA
WORKFORCE INVESTMENT ACT (WIA)
WAIVER REQUEST

Use of Rapid Response Funding for Incumbent Worker Training

The California Workforce Investment Board (State Board) and the Employment Development Department (EDD), as the administrative entity of the Workforce Investment Act (WIA) in California, submit this request for a waiver of the restrictions on the use of both regular and American Recovery and Reinvestment Act (ARRA) Rapid Response funding for Incumbent Worker Training at the Local Workforce Investment Area (Local Area) level. (A definition of incumbent worker is under development. The State Board will approve one before this waiver becomes operational.) This waiver would allow Local Workforce Investment Boards (Local Boards), at their discretion, to use Rapid Response funding of Local Area regular and ARRA funds for adults and dislocated workers [WIA Section 133(b)] to provide statewide employment and training activities identified at WIA Section 134 and 20 CFR 667.130, specifically to carry out Incumbent Worker Training programs specifically for layoff aversion at the Local Area level. This waiver will apply to Program Year 2009 and subsequent years.

In keeping with the guidelines set forth at WIA Section 189(i)(4)(b) and 20 CFR Part 661.420(c) please accept the following as a request for a waiver.

A. Statutory or Regulatory Requirements to be Waived

The State of California requests a waiver from the provisions of WIA Sections 134 (Use of Funds for Employment and Training Activities), as well as a waiver from the provisions of WIA regulation at 20 CFR 665.300 regarding the use of WIA Rapid Response funds.

B. Goals of the Waiver and Expected Programmatic Outcomes if Waiver is Granted

California has the largest labor market in the United States. In 2008, nonfarm payrolls totaled 14,994,100 jobs, comprising 10.9 percent of the nation's nonfarm jobs. In addition, California had 390,900 jobs in the farm sector for a total of 15,385,000 jobs in 2008. In the second quarter of 2009, the California economy was gripped by a severe recession characterized by deepening job losses and rapidly rising unemployment. California's economic problems originated in the housing and financial sectors, spread into the consumer economy, and subsequently into the rest of the economy. Unemployment is highest in low skill occupations. Mass layoff events have increased. Job losses are expected to continue into 2010.

Investing public resources to support technical and/or soft skills training of incumbent workers is a practical layoff aversion strategy for the state. It retains good jobs in California's targeted sectors. These identified (targeted) industry sectors play a key role in the state's economic success. The State Workforce Investment Board (State Board) in collaboration with the Economy Strategy Panel continues to invest in the development and implementation of the Regional Economies Project Industry Clusters of Opportunity Methodology (ICM). This economic analysis identifies on a regional basis, those industries that are emerging and those that are critical to the economic competitiveness of California's economy, which may require intervention to ensure viability for the long term. To further this effort, the State Board has awarded grants to assist existing regional collaboratives, or the formation of new regional partnerships to use the ICM to establish sector strategies, targeting those industries and its employees, identified through the regional data analysis.

The application of this ICM framework, assures that funds used for incumbent worker training, benefit the employee and employer, as well as improve the region's economic vitality. The continued use of other existing methods such as WARN Notices will also complement the use of ICM. This waiver also provides the Local Board with greater flexibility in the use of WIA Rapid Response funds to participate in the regional collaborative and leverage the full capability of the system's resources and not be constrained by the silos typically associated with WIA funding streams.

Additionally, the plan for incumbent worker training, as part of California's layoff aversion strategy, will target industries and economic sectors, which offer high skill and high wage jobs. One of these sectors is the green economic sector. California has a long-standing history of leading implementation of environmental policy. Most recently, the enactment of the California Global Warming Solutions Act (AB32) and the Alternative and Renewable Fuel and Vehicle Technology Program (AB118) have demonstrated that California is becoming a national and global leader in combining advances in public policy and private sector innovation to enhance both environmental quality and economic growth. In addition, the Governor signed the Green Collar Jobs Act, establishing the Green Collar Jobs Council (GCJC) under the State Workforce Investment Board and directing the development of a statewide sector strategy targeting the emerging Green economy.

The types of training that will be provided include occupational skills training designed to meet the special requirements of a business and is conducted with employer commitment to continue to retain all trained individuals upon successful completion of the training, educational training, training in strategies to improve efficiency of business operations, and computer software training. Training is expected to provide skills, which result in the employer being able to adjust to a changing economic climate by providing the jobs necessary to do so, thus averting layoffs. Training is also expected to provide skills for employees, which will permit advancement to higher skilled, higher paying jobs and job retention.

The IWT layoff aversion strategy will continue to be coordinated with other existing services accessible through One Stop Career Centers throughout California and will help to ensure to the extent possible a maximum return of investment as the 49 Local Areas that comprise California's workforce system continue to face a wide range of distinct economic challenges due largely to the national economic downturn which in California, like many other states has resulted in excessively high unemployment.

Criteria will be established to identify appropriate uses of incumbent worker training. Employers will be selected where economic indicators demonstrate a need for incumbent worker training as part of a layoff aversion strategy. Such indicators may include announced layoffs or reduced work schedules. An analysis will be performed to ensure the training provides the employees with the skills necessary to enable the employer to maintain operations and avert layoffs, or even closure. Employers will be required to demonstrate a commitment to retain the employee, to pay the employee a higher wage or otherwise provide a tangible benefit to the employee.

California's workforce system is comprised of 49 Local Workforce Investment Areas which are independently locally operated by a Local Workforce Investment Board. As such, the local areas have a large degree of flexibility to develop programs and deliver services that best address the unique needs of the local labor market. Because of their connection with the employer community, staff at the local level is in the best position to identify opportunities for utilizing the IWT service strategy and for developing appropriate criteria for implementing the IWT layoff aversion strategy together with Rapid Response and other economic development strategies.

C. State or Local Statutory or Regulatory Barriers

There is no State or local statutory or regulatory barriers to implementing the proposed waiver.

D. Description of Individuals Impacted by the Waiver

This waiver plan will positively affect businesses by reducing the risk of layoff or closure because workers have not kept current with new skills and technologies. It also has the potential, as businesses expand due to the enhanced skills of their current workers, to stimulate new, lower-skill positions and to create openings in positions vacated by incumbent workers who receive skills upgrade training. The training provided to individuals will make them more valuable to current and future employers. This waiver plan increases the role Local Boards as workforce intermediary and the role of business in the workforce development system. It also increases local flexibility to respond to the business community, in keeping with the goals of the WIA.

E. Opportunity for Public Comment and the Process for Monitoring Implementation of the Waiver

This request was developed as a result of concerns expressed by Local Boards. The State Board and the EDD, as the administrative entity of the WIA in California published the Waiver on the State Board's website for 7 days. The State's current policy directive and monitoring policy/procedures will be modified, as necessary, to include this waiver. Funding will be tracked by funding stream.

Administrative Item Workforce Investment Act Waiver Requests

Action Requested

The State Board approves the Workforce Investment Act Waiver Request package submitted to the U.S. Department of Labor.

Background

The U.S. Employment and Training Administration published Training and Employment Guidance Letter (TEGL) 21-09 on April 15, 2010. This TEGL provides instructions for submitting Workforce Investment Act (WIA) and Wagner-Peyser Act State Plans and Waiver Requests for Program Year 2010. For those states wishing to request new waivers and have them in place for all of PY 2010, these waivers must be submitted by May 14th, 2010. The state has submitted the attached waivers to the U.S. Department of Labor (DOL) on May 13, 2010.

Approval of the State WIA Waiver Request Package

The WIA of 1998 provides general statutory and regulatory waiver authority, with some exceptions, to ensure that states and Local Workforce Investment Areas (local area) are allowed flexibility in implementing WIA programs. The U.S. Department of Labor encourages State and local officials to take full advantage of the waiver process to design flexible, effective State and local workforce development systems.

These waivers were identified through consultation with local area representatives and DOL. They will grant additional flexibility in the use of WIA and American Recovery and Reinvestment Act of 2009 (ARRA) funds to local areas to provide incumbent worker training and reimburse employers up to 90 percent for on-the-job training to eligible WIA participants.

The two waiver requests are:

- Incumbent Worker Training - would allow Local Workforce Investment Boards, at their discretion, to use Rapid Response funding of Local Area regular and ARRA funds for adults and dislocated workers to provide statewide employment and training activities, specifically to carry out Incumbent Worker Training programs specifically for layoff aversion at the Local Area level.
- On-the-Job Training - would increase flexibility for the use of WIA formula and ARRA funds by permitting up to 90 percent reimbursement of the extraordinary costs of on-the-job training. Reimbursement would be provided on a sliding scale based on employer size: up to 90% for employers with 50 or fewer employees; up to 75% for employers with 51 to 250 employees; for employers with 251 or more employees, reimbursement would remain at the 50% statutory level.

The waiver requests were approved for publication by State Board and Employment Development Department leadership. The requests were published for a 7-day public comment period on the State Board's website on May 3, 2010.

**STATE OF CALIFORNIA
WORKFORCE INVESTMENT ACT (WIA)
WAIVER REQUEST**

**Waiver to Permit Up to 90 Percent Reimbursement for
On-the-Job-Training**

The California Workforce Investment Board (State Board) and the Employment Development Department, as the administrative entity of the WIA, submit this request for a waiver to permit up to 90 percent reimbursement for on-the-job-training.

In keeping with the guidelines set forth at WIA Section 189(i)(4)(B) and 20 Code of Federal Regulations (CFR) Part 661.420(c), please accept the following as a request for waiver.

The State Board respectfully requests a waiver to allow the State to reimburse up to 90 percent of employer cost for on-the-job-training.

A. Statutory or Regulatory Requirements to be Waived

Section 101(31)(B) of the Workforce Investment Act

B. Goals of the Waiver and Expected Programmatic Outcomes if Waiver is Granted

The purpose of this waiver is to increase flexibility for the use of WIA formula and American Recovery and Reinvestment Act (ARRA) funds by permitting up to 90 percent reimbursement of the extraordinary costs of on-the-job training. Reimbursement would be provided on a sliding scale based on employer size: up to 90% for employers with 50 or fewer employees; up to 75% for employers with 51 to 250 employees; for employers with 251 or more employees, reimbursement would remain at the 50% statutory level.

The waiver will allow the State to encourage and expand the hiring of unemployed adult and dislocated workers who lack some of the skills needed to meet an employer's needs. It will provide them with opportunities to add new skill sets and learn new technologies while they return to the workplace and earn wages to support themselves and their families.

It will also:

- Maximize the flexibility needed to create on-the-job-training opportunities in the private and non-private sectors that provide appropriate skill acquisition opportunities for participants.
- Increase business usage of the workforce system and provide greater incentives for them to hire new workers.

- Attract a larger number of high quality, high wage jobs that create economic wealth for the various regions within the State.

California has one of the highest unemployment rates in the nation. This waiver will help businesses solve workforce challenges, such as attracting and retaining well qualified workers.

C. State or Local Statutory or Regulatory Barriers

There are no State or local statutory or regulatory barriers to implementing the proposed waiver.

D. Description of Individuals Impacted by the Waiver

Adult and Dislocated workers and other hard to serve populations with the greatest barriers to employment who are not already skilled enough to obtain available employment and would most benefit from being able to earn a wage while learning new skills; employers with full-time job openings in growth industries who are having difficulties finding appropriately skilled workers but would have the ability to provide on-the-job-training if assisted with the extraordinary costs of providing such training.

E. Opportunity for Public Comment and the Process for Monitoring Implementation of the Waiver

This request was developed as a result of concerns expressed by Local Boards. The State Board and the EDD, as the administrative entity of the WIA in California published the Waiver on the State Board's website for 7 days. The State's current policy directive and monitoring policy/procedures will be modified, as necessary, to include this waiver. Funding will be tracked by funding stream.

ISSUE PAPER

Definition of Incumbent Worker

Action Requested

The State Workforce Investment Board approves the definition for Incumbent Worker.

Background

Incumbent worker training is an allowable statewide activity under WIA Section 134(a)(3)(A)(iv)(I) and 20 Code of Federal Regulations (CFR) Section 665.210(d). States may establish policies and definitions to determine which workers, or groups of workers, are eligible for incumbent worker services. To date, the State Board has not provided such a definition. Funding for incumbent worker training must be drawn from the State's combined adult, youth and dislocated worker "15 percent discretionary funds." The State has also been granted a waiver for Local Workforce Investment Areas (LWIAs) to use up to 10 percent of Adult and Dislocated Worker funds for incumbent worker training programs that are part of a layoff strategy.

Generally, incumbent worker training is developed with an employer or employer association to upgrade skills training of a particular workforce. It usually takes place in the workplace or after work hours for employees of a specific employer or employer association. The employer agrees to retain the trained worker upon completing training. Frequently, such training is part of an economic development or business retention strategy developed by a State.

Definitions Used by Other States

Research has indicated that states define "incumbent worker" differently. Some examples of specific state definitions are as follows:

North Carolina:

- A paid employee of the applicant business, or a person working for the business as a staffing agency employee,
- At least 18 years of age, and
- A citizen of the United States or a non-citizen whose status permits employment in the United States. Volunteers and board members of the business are not eligible for incumbent worker training.
- Any incumbent worker trained must be working in a facility located in North Carolina.

Florida:

- A paid employee of the applicant business, or a person working for the business as a staffing agency employee, working at least 37.5 hours per week.
- At least 18 years of age.

- A citizen of the United States or a non-citizen whose status permits employment in the United States.
- Employed on or before the signature date of the application. Like North Carolina, volunteers and board members of the business are not eligible.
- Incumbent workers must be trained at a physical location in Florida.

Louisiana

- A worker who is currently on the payroll of the applicant.

Tennessee

- An existing full-time employee.

Arkansas

- An employee of the applicant business.

California Employment Training Panel

The California Employment Training Panel (ETP) provides funds for incumbent worker training. The ETP uses the following definition of an eligible participant. The ETP training program is funded through the Employer Training Tax (ETT), which is levied against employers participating in the Unemployment Insurance (UI) program. This definition is based upon the California Unemployment Insurance Code Section 10201(c)(1).

An eligible participant is

- A worker employed full-time for a minimum of 90 days with a single employer, and are participants in the training program,
- A worker who has been employed for less than 90 days with their current employer and has a work history of being employed for at least an average of 20 hours per week for at least 90 days by an ETP eligible employer(s) during the 180 day period preceding their current hire date, or
- A worker who was employed less than 90 days prior to the start date of employment with their current employer and were collecting Unemployment Insurance (UI) benefits, or had exhausted their benefits within the previous two years.

Issue

Should the California Workforce Investment Board (State Board) adopt such a definition?

Alternatives

1. Status Quo: Do not define the term “incumbent worker.”

Pro:

- This alternative permits Local Workforce Investment Boards (LWIB) maximum flexibility in providing incumbent worker training.

Con:

- To obtain approval for a waiver using ARRA Rapid Response funds for this activity, the Department of Labor (DOL) requires that the State Board to develop a working definition for the WIA statewide system.
- May produce confusion between the eligibility required for incumbent worker training and intensive and training services provided in accordance with the other WIA provisions for adult and dislocated workers.

2. Use the California Employment Training Panel (ETP) Definition: The State Board adopts the definition of “eligible participant” currently used by the ETP.

Pro:

- Adopting the definition developed by ETP and currently in use in California is convenient, consistent and efficient.
- Some of the system stakeholders are already familiar with this definition.

Con:

- The task of defining an incumbent worker is the purview of the State Board.
- The ETP definition has been legislated to meet the needs of the ETP not the WIA.
- It is administratively burdensome and does not afford the maximum coverage of employees who may otherwise be eligible for incumbent worker training under the WIA.

3. Develop a Simple Definition: The State Board develop and adopt a simple, yet definitive definition of the term “incumbent worker” as *“an employee of the business applying for incumbent worker training in accordance with the WIA.”*

Pro:

- The task of defining an incumbent worker is the purview of the State Board.
- Satisfies the requirement of DOL in granting the waiver for use of ARRA for this training.
- Provides flexibility to the LWIBs without constraining them with lengthy and detailed definitions.
- The ETP definition is too detailed and cumbersome and is based upon a law, which does not use the term “incumbent worker.”

Con:

- Adopting this alternative creates two distinct and separate definitions of “incumbent worker” for use in the State of California.

Recommendation

Alternative 3. The State Board adopt a definition of an “incumbent worker” as an employee of the business applying for incumbent worker training in accordance with WIA. This definition would apply to incumbent worker training funded by the WIA. However, a caveat should be included that the incumbent worker training be conducted at a facility physically located in the State of California to ensure the WIA funds are expended within the state.

One-Stop Career Center System Branding

Recommended Actions:

1. The State Board will identify the Issues and Policies Committee (IPC) as the lead entity for hearing recommendations from the multi-agency/partner One-Stop Career Center Branding Workgroup (Workgroup) and work with them to accomplish:
 - The identification of a common tool that can be used to create name recognition for California's One-Stop Career Center System; b) the development of an implementation framework for the use of the tool; and c) research in the potential development of a dedicated resource website for employers and job-seekers.
 - Criteria, policy, implementation and oversight of the common identifying tool.
2. The California Workforce Investment Board (State Board) will charge staff to:
 - Label the existing link and interactive map of the One-Stop Career Center listing on CWIB website more clearly for easier recognition by employers and job-seekers; and
 - Advertise available One-Stop Career Center employer services and locations to employer organizations (e.g. the State Chamber of Commerce and the California Manufacturers and Technology Association).

Background

On June 17, 2009, Ms. Pam Harris, Chief Deputy of the Employment Development Department (EDD), introduced a presentation on system branding. She expressed the great amount of emphasis being placed on the One-Stop Career Center System (OSCCS) at this time, and the need for a common brand for the entire system. At that meeting, Ms. Loree Levy detailed the various complications, issues, and challenges the OSCCS faces with employers, the general public, and lawmakers who make budgetary decisions for the system all due to the lack of a common brand or identifier. With the workforce development system in the recessionary spotlight, it was a good time to entertain the potential for a common brand.

To gain a greater understanding as to the degree of unfamiliarity with the OSCCS and the services provided, EDD commissioned a "One-Stop Center Branding Survey" of employers and job-seekers to be done by three California colleges.

6. Update:

a. Healthcare Reform Taskforce

- **Secretary Kimberly Belshé, Health and Human Services Agency (Invited)**

b. WIA Formula Funding Allocations

7. Information Presentation

- **State of the Economy**
Richard Roth, Chief Economist, Department of Finance

8. Public Comment

9. Other Business